

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

YAFREICI PERALTA,

Plaintiff,

-against-

PCS USA LLC, doing business as PITT
COOKING SYSTEMS, also known as PITT
COOKING NEDERLAND; LOUIS VAN
LEEUVEN,

Defendants.

22-CV-9312 (JPO)

ORDER OF SERVICE

J. PAUL OETKEN, United States District Judge:

Plaintiff brings this *pro se* action under Title VII of the Civil Rights Act of 1964; the New York State Human Rights Law, N.Y. Exec. Law §§ 290 to 297; the New York City Human Rights Law, N.Y.C. Admin. Code §§ 8-101 to 131, and other state laws, alleging that her employer discriminated against her based on her race, ethnicity, and sex. By order dated November 1, 2022, the Court granted Plaintiff's request to proceed *in forma pauperis* (IFP), that is, without prepayment of fees.

A. Order of service

Because Plaintiff has been granted permission to proceed IFP, she is entitled to rely on the Court and the U.S. Marshals Service to effect service.¹ *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve

¹ Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that summonses be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served the summons and the complaint until the Court reviewed the complaint and ordered that summonses be summoned. The Court therefore extends the time to serve until 90 days after the date summonses are issued.

all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)).

To allow Plaintiff to effect service on Defendants PCS USA LLC, doing business as Pitt Cooking Systems (“Pitt”), and Louis Van Leeuwen, through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for these Defendants.² The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendants.

If the complaint is not served within 90 days after the date the summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if her address changes, and the Court may dismiss the action if Plaintiff fails to do so.

B. Motion for *pro bono* counsel

The factors to be considered in ruling on an indigent litigant’s request for counsel include the merits of the case, Plaintiff’s efforts to obtain a lawyer, and Plaintiff’s ability to gather the facts and present the case if unassisted by counsel. *See Cooper v. A. Sargenti Co.*, 877 F.2d 170, 172 (2d Cir. 1989); *Hodge v. Police Officers*, 802 F.2d 58, 60-62 (2d Cir. 1986). Of these, the merits are “[t]he factor which command[s] the most attention.” *Cooper*, 877 F.2d at 172. Because

² Plaintiff did not provide addresses for Defendants, although the complaint states that Pitt is a Dutch company with a United States headquarters in Connecticut. (ECF 2 ¶ 8.) This order directs service on both Defendants at a publicly available address for Pitt in Connecticut.

it is too early in the proceedings for the Court to assess the merits of the action, Plaintiff's motion for counsel is denied without prejudice to renewal at a later date.

CONCLUSION

The Clerk of Court is further instructed to complete the USM-285 forms with the addresses for PCS USA LLC, doing business as Pitt Cooking Systems, and Louis Van Leeuwen, and deliver all documents necessary to effect service to the U.S. Marshals Service.

The motion for counsel is denied without prejudice, and the Clerk of Court is directed to terminate it. (ECF 3.)

SO ORDERED.

Dated: November 9, 2022
New York, New York



J. PAUL OETKEN
United States District Judge

DEFENDANTS AND SERVICE ADDRESSES

1. PCS USA LLC, dba Pitt Cooking Systems
209 River Road Ext.
Cos Cob, Connecticut, 06807
2. Louis Van Leeuwen
209 River Road Ext.
Cos Cob, Connecticut, 06807